

Members

Sen. Marvin Riegsecker, Chairperson
Sen. Rose Antich
Rep. Sheila Klinker
Rep. Robert Alderman
Thomas E. Van Meter
Sylvia Brantley
Suda Hopkins
Joanne Rains
Betty Williams
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Christopher Durcholz



INDIANA COMMISSION ON MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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MEETING MINUTES¹

Meeting Date: August 30, 2001
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Marvin Riegsecker, Chairperson; Rep. Sheila Klinker; Rep. Robert Alderman; Sylvia Brantley; Suda Hopkins; Betty Williams; Sally Lowery; Ervin Picha; Christopher Durcholz.

Members Absent: Sen. Rose Antich; Thomas E. Van Meter; Joanne Rains.

Senator Riegsecker called the meeting to order at approximately 1:15 PM. Commission members introduced themselves. Senator Riegsecker introduced the Commission's staff and noted that the Governor had reappointed all the lay members who served on the Commission last year.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Family and Social Services (FSSA) Update

John Hamilton, Secretary, FSSA

Mr. Hamilton introduced himself to the Commission, noting that he has held the position of FSSA Secretary for two months. He informed the Commission that Marilyn Schultz, a former state legislator and currently the Vice President for Planning and Budgets at Indiana State University, has been appointed as the new Director of the Division of Disability, Aging, and Rehabilitative Services (DDARS) within FSSA and will start her new position on October 10.

Mr. Hamilton presented the Commission with an update on recent developments at Muscatatuck State Developmental Center (MSDC). He reminded the Commission that MSDC had lost its federal Medicaid funding a couple of years ago, being one of 30 facilities in the country to lose such funding. On June 26, 2001, the fourth and final stage of recertification at MSDC was achieved, making MSDC the only one of the 30 facilities to have completely regained its federal certification. The recertification of stage 4 means that an additional \$700,000 per month of federal money will be received by the state for MSDC. The complete recertification of MSDC means that a total of \$2 million per month in federal money has been restored to the state. Mr. Hamilton informed the Commission that there is much planning being done at the present time to prepare MSDC residents for the upcoming closure of the center. All MSDC residents and their families have been contacted with general information regarding transition options, with approximately one-half of residents and families having been given specific information with which to begin the planning process. Beginning in September, DDARS will begin holding informal group meetings so that family members can learn about various options available for their loved ones when the time comes for them to move out of MSDC. Since May 1, 25 residents have moved out of MSDC, mostly into group homes, supported living environments, or alternative families for adults.

Concerning the recent call of the Governor for state agencies to identify areas in which to save money, Mr. Hamilton presented the Commission with a handout indicating several areas within FSSA where such savings could be achieved without a negative impact on services currently being provided. (See Exhibit 1.) Mr. Hamilton also stated that FSSA is looking aggressively for opportunities for alternative funding sources. For example, FSSA has applied to the federal Centers for Medicare and Medicaid Services (CMS, formerly the Health Care Financing Administration or HCFA) for a systems change grant to assist the state in developing its *Olmstead* plan and moving toward a community-based system of services. FSSA expects to hear from CMS on this application by October 1. Mr. Hamilton noted that FSSA has recently received two grants from the federal Department of Health and Human Services (HHS): a grant to the Division on Mental Health and Addiction for consumer input and a "starter grant" that will assist in funding the Governor's Community Choice Commission.

Regarding the continued implementation of the 317 Task Force Plan, Mr. Hamilton noted that all of the \$64 million appropriated in the 1999-2001 budget was invested in services to individuals. The original estimate for the number of people to be served through these funds was 1,757. The actual number served was almost 2,400.

Responding to questions regarding the closure of MSDC, Mr. Hamilton noted that the 25 individuals who have already relocated from the facility represent about 10% of the total MSDC residents and that FSSA is following and will continue to follow these individuals, and others who move out in the future, to assure that they continue to receive the services that they need, similar to the tracking done for the former residents of the New Castle State Developmental Center.

Representative Klinker informed Mr. Hamilton of the Commission's trips in previous years to MSDC and Fort Wayne State Developmental Center (FWSDC) and of the concerns that the Commission heard from many elderly parents of individuals residing in those centers regarding providing services to those individuals in the community rather than at one of the centers. Representative Klinker urged Mr. Hamilton to give strong consideration to continuing to use at least part of the MSDC facilities to provide services under whatever plan the state decides to implement for providing services to individuals in smaller settings. Mr. Hamilton acknowledged that the residents of MSDC are at the center of the closure process and informed the Commission that the planning process happens one person at a time to identify the appropriate options for that person, considering input from the individual, the individual's family, and the professionals involved in the individual's care. Mr. Hamilton emphasized that the planning process is not driven by budget savings. He also explained the southeast regional planning process is looking at many issues, including where beds, both mental illness and developmental disability beds, should be located in the region. These issues are not simple issues, and Mr. Hamilton acknowledged that Jennings County (where MSDC is located) and the city of Madison (where Madison State Hospital is located) are central to the planning process. Mr. Hamilton agreed that the planning process should consider the needs of the residents, families, caregivers, and communities.

Responding to questions regarding the concerns raised by the federal Department of Justice (DOJ) over MSDC and FWSDC, Mr. Hamilton commented that it is FSSA's duty to assure that necessary services are provided to individuals in the least restrictive setting possible. **Steve Cook, Deputy Director, Bureau of Developmental Disabilities, DDARS**, informed the Commission that the DOJ visited both MSDC and FWSDC in May and has followed some residents who have moved out of those facilities. Mr. Cook stated his belief that the DOJ's ultimate goal is to have all residents moved out of state developmental centers into the community as soon as the proper supports are in place. Mr. Cook stated that the DOJ is expected to return to both centers in December or January.

Responding to questions regarding specific items listed on Exhibit 1, FSSA personnel explained as follows:

- \$1 million reserve from state appropriated vocational rehabilitation account (first item under DDARS): Mr. Hamilton stated that this reserve is made up of funds that are not currently being used and could therefore be used for savings purposes. **Alison Becker, Director, Fiscal Services, DDARS**, further explained that these funds are federal dollars that come into the state to be used at the state's discretion for providing vocational rehabilitation services and that the state often receives more than it can spend on these types of services. She also stated that these funds are considered to still be federal dollars and are therefore not eligible for a federal Medicaid match. She explained that this reserve has built up over the years because the program has been budgeted certain amounts each year but FSSA has been successful in getting a fair amount of federal funding to provide these services, so it has not been necessary to use these state dollars. Mr. Hamilton reiterated that it is FSSA's policy to move aggressively and quickly to maximize federal funding opportunities.
- \$6.5 million reserve in developmentally disabled client services dollars (second item under DDARS): Ms. Becker explained that while technically this represents a "taking back" of funds from the 317 appropriation, it represents the fact that FSSA expects to be able to move many individuals from services that are funded by 100% state dollars onto the new developmental disabilities (DD) Medicaid waiver, thus making those services eligible for federal financial participation. Estimates show that this transfer of services onto the Medicaid waiver should more than make up the \$6.5 million being placed in reserve. Mr. Hamilton noted that none of the proposed reserves are expected to result in the reduction

of services to any individual, but would slow down the state's ability to expand services to additional individuals.

Representative Alderman expressed concern that the state's budget concerns are not addressed by taking away needed money and services from the state's most vulnerable citizens.

Senator Riegsecker requested that FSSA provide the Commission with information regarding the percentage of federal dollars available for DD services that the state actually receives and what the current use is of county Family and Children's Fund dollars that will be used to replace state funds in the Children's Seriously Mentally Ill Fund (second item under Division of Mental Health and Addiction on Exhibit 1).

Update on 317 Implementation, Waiver Rewrite, and Waiting Lists **Alison Becker, Director, Fiscal Services, DDARS**

Ms. Becker informed the Commission that she has recently been traveling throughout the state speaking about the state's comprehensive plan for community integration and support of persons with disabilities. Ms. Becker provided the Commission with a copy of the plan (Exhibit 2) and noted that the second edition, which will include comments on the plan, is due in early October. Ms. Becker also noted that the most recent edition of FSSA's *Transitions* newsletter (Exhibit 3) contains more detailed information on the grants referred to by John Hamilton.

Ms. Becker provided the Commission with a copy of the 317 management report for FY 2001 and other documents detailing the number of individuals served by 317 plan dollars, the cost of services, and the waiver waiting lists (Exhibit 4). Ms. Becker noted that for FY 2001, the annualized cost of providing services to individuals who are served under the 317 plan exceeded the funds budgeted for the year. She explained that this excess is due in large part to the number of individuals who have lost Medicaid funding due to no longer requiring a group home level of care and are thus receiving care through 100% state funds. She stated that many of these individuals may be able to be served under the revised DD waiver that is currently under review by the federal government, thus allowing some of the cost, approximately \$9 million, to be borne by federal Medicaid dollars.

Ms. Becker told the Commission that there is currently one full-time FSSA staff person working on both the new DD waiver (a revision of the ICF/MR waiver) and a state Medicaid plan amendment request to allow targeted case management for developmentally disabled individuals who are receiving non-waiver Medicaid services. Training on these new programs will begin next week and will involve consumers, families, and state staff. FSSA expects to hear from CMS regarding the DD waiver in October and anticipates, upon approval, being able to move approximately 1,500 individuals onto the DD waiver from fully state-funded services by December 31, thus freeing up state funds to serve other individuals. FSSA is also working on an amendment to the autism waiver to provide applied behavioral analysis services to individuals on that waiver as well as adding 100 slots per year for each of the next two years. In addition, FSSA is working on a family support waiver to allow FSSA to provide respite and day services to individuals who are not currently eligible for such services and is amending the Medicaid waivers to provide for consumer-directed care.

Ms. Becker informed the Commission that the number of individuals currently on the waiting lists for waiver services is as follows (in unduplicated numbers):

- Aged and disabled: 2,109.

- Autism: 304. (There are a total of 1,709 individuals who are on both the autism waiting list and at least one other waiver waiting list.)
- ICF/MR (soon to be DD): 6,248. (There are a total of 7,490 individuals who are on both the ICF/MR waiting list and at least one other waiver waiting list.)

Ms. Becker noted that although the number of people on the waiting lists continues to increase, it can be seen as a sign that individuals who need services are now aware of the existence of those services.

Representative Klinker commented that it is very important to have adequate staff in FSSA applying for waivers in order to reduce the waiting lists and secure additional federal funding, as well as having enough staff to work one-on-one with the individuals who need services.

Responding to a question regarding integration between FSSA and the Indiana State Department of Health (ISDH) concerning the Medicaid decertification of individuals in group homes, Steve Cook noted that FSSA and ISDH have been working together closely over the past few months and that individuals who lose their Medicaid funding under the W198 rule now have a minimum of seven months, and usually as much as 10 months, in which to find an alternative environment, as opposed to the 30 days they were being given earlier this year. Mr. Cook also noted that over 90% of individuals decertified through the W198 process are still able to have their services funded through a Medicaid waiver if a slot is available and that all of these individuals continue to be provided with 24-hour care. Mr. Cook commented that although there are still some concerns regarding individual citations under the W198 process, the situation is no longer at the crisis point it was earlier this year. Ms. Becker noted that targeted case management would probably be of use in these types of situations as case managers would be able to assist an individual in applying for waiver services.

Ms. Becker informed the Commission that FSSA is continuing to investigate ways in which the rates paid to direct-care providers can be increased in recognition of the importance of the care provided by these individuals.

Responding to a question regarding whether the staff at state developmental centers are included in the planning process for individuals who are moving out of the center into the community, Steve Cook noted that direct-care staff are considered a valuable source of information in determining the placement of and care plan for these individuals and are consulted regarding those decisions. However, these direct-care staff persons, who are encouraged to visit the former center residents in their new settings as friends, are not included as official members of the quality assurance teams that follow these former developmental center residents once they leave the center.

Plan of Study for Interim

Senator Riegsecker distributed a proposed plan of study for the Commission for this interim, including meeting dates and study topics. (See Exhibit 5.) Issues that were noted as being particularly important this summer were group home issues, First Steps, and the closing of MSDC, including the economic impact on the surrounding area.

Public Testimony

John Dickerson, Executive Director, The ARC of Indiana, noted that FSSA and DDARS are working hard to implement the 317 plan which presents both great opportunities and challenges for all involved. He also noted that an issue of continuing importance in this

area is the availability of a well-trained workforce to provide the necessary direct care to individuals with disabilities.

Next Meeting/Adjournment

The next meeting of MRDD will be held Wednesday September 5, 2001, at 10 AM. This meeting will focus on the Infants and Toddlers with Disabilities program ("First Steps").

There being no further business to come before the Commission, Senator Riegsecker adjourned the meeting at approximately 2:35 PM.